

PETITION, NOT PRINTED

# **TRANSCRIPT OF RECORD**

---

**Supreme Court of the United States**

**OCTOBER TERM, 1960**

**No. 177**

---

**RICHARD W. MARSHALL, PETITIONER**

**vs.**

**JOHN E. BENNETT, WARDEN**

---

**ON WRIT OF CERTIORARI TO THE SUPREME COURT  
OF THE STATE OF IOWA**

---

**PETITION FOR CERTIORARI FILED OCTOBER 31, 1959  
CERTIORARI GRANTED JUNE 27, 1960**

# Supreme Court of the United States

OCTOBER TERM, 1960

No. 177

RICHARD W. MARSHALL, PETITIONER

vs.

JOHN E. BENNETT, WARDEN

ON WRIT OF CERTIORARI TO THE SUPREME COURT  
OF THE STATE OF IOWA

## INDEX

	Original	Print
Record from the District Court of Lee County, First Judicial District, State of Iowa, Fort Madison		
Exhibit 1—Petition for writ of habeas corpus	1	1
Exhibit 2—Application for leave to proceed in forma pauperis	3	3
Exhibit 3—Petitioner's affidavit in support of application for leave to proceed in forma pauperis, dated September 16, 1959	4	4
Exhibit 4—Order denying leave to proceed in forma pauperis, signed by Judge J. R. Leary, dated September 18, 1959	5	6
Exhibit 5—Notice of appeal	7	8
Exhibit 6—Motion to settle record on appeal	8	9
Exhibit 7—Order signed by Judge J. R. Leary, dated October 6, 1959	9	10
Proceedings in the Supreme Court of the State of Iowa	11	11
Exhibit 8—Motion to proceed on typewritten copies	11	11
Exhibit 9—Order granting motion	12	12

	Original	Print
Exhibit 10—Motion to be allowed to proceed in forma pauperis, etc. ....	13	13
Exhibit 11—Affidavit of poverty, dated October 6, 1959.....	14	15
Exhibit 12—Order denying application.....	16	17
Stipulation entered into by Norman A. Erbe, Attorney General of the State of Iowa and Luther L. Hill, Jr. regarding parts of record to be printed, dated July 26, 1960.....	17	18
Letter from Mary McMurry, Deputy Clerk of the District Court to Ralph A. Church, dated August 11, 1960.....	19	20
Order granting motion for leave to proceed in forma pauperis and granting petition for writ of certiorari .....	21	22

[fol. 1]

EXHIBIT 1

**IN THE DISTRICT COURT OF LEE COUNTY,  
FIRST JUDICIAL DISTRICT, STATE OF IOWA,  
FORT MADISON**

**RICHARD W. MARSHALL, PETITIONER.**

**VS.**

**JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, RESPONDENT**

**PETITION FOR WRIT OF HABEAS CORPUS  
TO THE PRESIDING JUDGE**

Comes now Richard W. Marshall, Petitioner in the above entitled cause and respectfully states to this Honorable Court, He is illegally restrained of his liberty under Color of the United States Constitution, contrary to the provisions of the 14th Amendment, § 1, thereof, express or implied therein.

Petitioner's illegal restraint being enforced and insured by John E. Bennett, Warden, Iowa State Penitentiary, Lee County, Fort Madison, Iowa.

The cause of said illegal restraint is by virtue of a mittimus issued to said Warden out of the District Court of Lee County Iowa, August 28, 1958, a copy of which is attached hereto.

The detention and restraint of the Petitioner is illegal wherein the County Attorney's Information is fatal on its face, and does not confer jurisdiction upon the Court to render any judgment, whereas it does not charge Petitioner with "intent" and the plea thereon was obtained by coercion and duress.

[fol. 2] The legality of the illegal detention and restraint of the Petitioner has never been adjudged upon in a prior proceeding of the same or similar character. Application for the writ of habeas corpus has never before been made to or refused by any Court or Judge relative to the judgment herein complained of.

## WHEREFORE, PETITIONER PRAYS:

This Honorable Court issue the writ of habeas corpus herein prayed for, requiring the Respondent to appear with the person of Richard W. Marshall, forthwith, and to serve and file his answer to this Petition at or before such time. That at such time, the Court proceed to hear and determine the legality of such restraint, and upon a determination that Richard W. Marshall is illegally and unlawfully restrained, Order his release, and discharge the Petitioner from the custody of the Respondent Warden hereon, forthwith, without costs to the Petitioner.

Respectfully Submitted

/s/ Richard W. Marshall  
RICHARD W. MARSHALL  
Petitioner

Subscribed and Sworn to this 16 Day Of September 1959,  
at Fort Madison, Lee County Iowa:

/s/ Ralph D. Moehn  
Notary Public in and for  
Lee County Iowa.

My Commission expires July 4, 1960.

SEAL

[fol. 3]

## EXHIBIT 2

IN THE DISTRICT COURT OF LEE COUNTY,  
FIRST JUDICIAL DISTRICT, STATE OF IOWA,  
FORT MADISON

RICHARD W. MARSHALL, PETITIONER

VS.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, RESPONDENT

## APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Comes now Richard W. Marshall, Petitioner, as movant hereon, and makes application to the Honorable Court for leave to proceed in the habeas corpus proceedings herein, without pre-payment of the statutory costs or filing fee.

Petitioner's supporting affidavit is attached hereto.

Respectfully Submitted

/s/ Richard W. Marshall  
RICHARD W. MARSHALL  
Box 316, #25719  
Fort Madison, Iowa.

[fol. 4]

## EXHIBIT 3

STATE OF IOWA )  
 COUNTY OF LEE )

ss.

IN THE DISTRICT COURT OF LEE COUNTY,  
 FIRST JUDICIAL DISTRICT, STATE OF IOWA,  
 FORT MADISON

RICHARD W. MARSHALL, PETITIONER

vs.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
 Fort Madison, Iowa, RESPONDENT

PETITIONER'S AFFIDAVIT IN SUPPORT OF APPLICATION FOR  
 LEAVE TO PROCEED IN FORMA PAUPERIS

Comes now Richard W. Marshall, Petitioner in the above  
 entitled cause being first duly sworn on Oath, deposes  
 and states the following, to wit:

I am a citizen of the United States, and a resident of  
 the State of California, now serving a term of 10 years  
 in the Iowa State Penitentiary, Fort Madison, Lee County  
 Iowa.

I am of legal age, and of sound mind, without funds or  
 property of my own, nor money, nor means to obtain  
 money with which to pay the statutory filing fee to  
 prosecute the habeas corpus proceeding, and unless the  
 application is granted I will be unable to obtain the relief  
 to which I believe I am entitled by the writ of habeas  
 corpus.

I have this day mailed by United States Mail, postage  
 prepaid, a copy of this application signed in manuscript  
 by myself, to the Hon. Norman A. Erbe, Attorney-General  
 of Iowa, and Attorney of Record for the Respondent  
 hereon, at the State House, Des Moines, Iowa.

I have read the within and enclosed petition prescribed by me, and the same is true, and I so do verily believe.

/s/ Richard W. Marshall  
RICHARD W. MARSHALL  
Petitioner, pro se

Subscribed and Sworn to this 16 Day Of September 1959,  
at Fort Madison, Iowa.

/s/ Ralph D. Moehn  
Notary Public in and for  
Lee County Iowa.

My Commission expires July 4, 1960.

SEAL



IN THE DISTRICT COURT OF LEE COUNTY,  
FIRST JUDICIAL DISTRICT, STATE OF IOWA,  
FORT MADISON

September Term, 1959

RICHARD W. MARSHALL, PETITIONER

VS.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
RESPONDENT

ORDER DENYING LEAVE TO PROCEED IN FORMA PAUPERIS—  
September 18, 1959

The petitioner has filed an application to be permitted to proceed in his habeas corpus proceedings without the payment of the statutory filing fee on the grounds that he is a pauper. Habeas corpus is a civil proceeding and there is no provision in the law for permitting of filing petitions for Writ of Habeas Corpus without the same filing fee as in other civil cases. The letter transmitting this petition also states that he is directing it to the Court under Section 663.11 of the 1958 Code of Iowa. This is also an attempt on the part of the petitioner, in the opinion of the Court, to have the petition heard without the necessity of paying the statutory filing fee. Section 663.11 is not applicable to this petition. This section refers to evidence which the Court may obtain from judicial proceedings before it. There is no judicial proceedings before the Court which would authorize or justify the Court in issuing a writ on its own motion.

The Court has, however, examined the plaintiff's petition and is of the opinion that even though filing fee is [fol. 6] paid and the petition properly filed that the petitioner would not be granted the relief which he seeks.

Plaintiff's contention is based on the failure to include the word "intent" in the County Attorney's Information and the allegation that his plea was obtained by coercion

and duress. The Information conforms to Section 773.34, and there is no facts alleged to sustain the allegations of coercion and duress, and since the petition on its face shows the petitioner would not be entitled to any relief the petition would have to be denied if properly presented to the Court.

Dated this 18th day of September, 1959.

/s/ J. R. Leary  
Judge of District Court  
First Judicial District

Clerk's Certificate to foregoing paper omitted in printing.

[fol. 7]

## EXHIBIT 5

IN THE DISTRICT COURT OF LEE COUNTY,  
FIRST JUDICIAL DISTRICT, STATE OF IOWA,  
FORT MADISON

RICHARD W. MARSHALL, APPELLANT

VS.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, APPELEE

## NOTICE OF APPEAL

To: Helen M. Lyman, Clerk, Supreme Court of Iowa,  
Des Moines, Iowa.

Comes now Richard W. Marshall, Appellant hereon and hereby files timely Notice of Appeal, pursuant to the provisions of the Rules of Civil Procedure # 336, 1958 Code of Iowa, from the judgment entered of Record in the Lee County Iowa District Court, the 19th Day of September, 1959, in the entitled matter of petition for writ of habeas corpus, Richard W. Marshall, Petitioner vs John E. Bennett, Warden, Iowa State Penitentiary, Lee County, Fort Madison, Iowa, Respondent Warden thereon, and the adverse Order appended thereto.

Respectfully Submitted

/s/ Richard W. Marshall  
RICHARD W. MARSHALL  
Appellant

[fol. 8]

## EXHIBIT 6

IN THE DISTRICT COURT OF LEE COUNTY,  
FIRST JUDICIAL DISTRICT, STATE OF IOWA,  
FORT MADISON.

RICHARD W. MARSHALL, PETITIONER

vs.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, RESPONDENT

## MOTION TO SETTLE RECORD ON APPEAL

Comes now Richard W. Marshall, Petitioner-Appellant, hereon, and respectfully moves the Court settle the proposed abstract in the above entitled cause, as the Record on Appeal, appending thereto an Order of the Court that the proposed abstract correctly shows the evidence of the trial, pursuant to the provisions of R.C.P. 340 (c), 1958 Code of Iowa, and return said abstract to the Petitioner-Appellant within the time prescribed by law.

Respectfully Submitted

/s/ Richard W. Marshall  
RICHARD W. MARSHALL  
Petitioner-Appellant  
Box 316, #25719  
Fort Madison, Iowa

IN THE DISTRICT COURT OF LEE COUNTY,  
FIRST JUDICIAL DISTRICT, STATE OF IOWA,  
FORT MADISON

September Term, 1959

RICHARD W. MARSHALL, PETITIONER

VS.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
RESPONDENT

ORDER—October 6, 1959

The petitioner has filed a motion to settle the record on appeal in the above matter, attaching to said motion, copy of the order entered by this Court on the 18th day of September, 1959, and also a copy of the application for leave to proceed in form pauperis and petitioner's affidavit in support of the application and also a copy of the petition for Writ of Habeas Corpus. There is no record to settle on this appeal. The appeal can only be from the order denying the petitioner's request to file his petition for Writ of Habeas Corpus as a pauper; so that the only papers necessary to be presented on this appeal would be the application to permit the petitioner to file without the payment of the statutory filing fee since the petition for Writ of Habeas Corpus was never formally considered by the Court.

Dated this 6th day of October, 1959.

/s/ J. R. Leary  
Judge of District Court  
First Judicial District

[fol. 11]

EXHIBIT 8

IN THE SUPREME COURT OF THE  
STATE OF IOWA

RICHARD W. MARSHALL, APPELLANT

vs.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, APPELLEEMOTION TO PROCEED ON TYPEWRITTEN COPIES—  
Filed September 29, 1959

Comes now Richard W. Marshall, Appellant hereon, and respectfully moves the Court issue an Order sustaining Appellant's motion for leave to proceed with the appellate litigation in the above entitled cause with the minimum number of copys of the Record on Appeal, in type-written form, and the number to be designated by the Court.

Respectfully submitted

Richard W. Marshall  
Appellant  
Box 316, #25719  
Fort Madison, Iowa

I hereby certify that the foregoing is a full, true and complete copy of the Motion filed in the above entitled cause, as full, true and complete as the same remains on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Des Moines, this 8th day of August, A.D. 1960.

/s/ Helen M. Lyman, Clerk.

IN THE SUPREME COURT OF THE  
STATE OF IOWA

BE IT REMEMBERED, That on the 30th day of September, 1960, the following proceedings were had, to-wit:

Appeal from Lee District Court.

RICHARD W. MARSHALL, APPELLANT

VS.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, APPELLEE

## ORDER

Application granted and applicant may file 15 copies of the Record in typewritten form as per request.

## THE SUPREME COURT OF IOWA

(s) Robert L. Larson,  
Chief Justice

I hereby certify that the foregoing is a full, true and complete copy of the order made by said Court in the above entitled cause, as full, true and complete as the same remains on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Des Moines, this 30th day of September, A.D. 1960.

/s/ Helen M. Lyman, Clerk.  
By Deputy

[fol. 13]

EXHIBIT 10

IN THE SUPREME COURT OF THE  
STATE OF IOWA

RICHARD W. MARSHALL, APPELLANT

VS.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, APPELLEEMOTION TO BE ALLOWED TO PROCEED IN FORMA PAUPERIS,  
ETC.—Filed October 20, 1959TO: ROBERT L. LARSON, CHIEF JUSTICE, SUPREME COURT  
OF IOWA.

Comes now Richard W. Marshall, Appellant hereon, and hereby respectfully moves the Honorable Court issue an Order sustaining Appellant's motion for leave to proceed with the appellate litigation without the prepayment of any statutory costs or filing fees; in "forma pauperis", wherein this Honorable Court has sustained the Appellant's motion to proceed with 15 typewritten copies of the Record on appeal, as the same appears of record, September 30, 1959, on the appeal taken from the adverse order of the Lee District Court, entered of record, September 19, 1959, on the habeas corpus proceeding attempted therein.

Appellant's Certified affidavit of poverty is hereto attached.

Respectfully submitted

Richard W. Marshall  
Appellant, Pro se  
Box 316, #25719  
Fort Madison, Iowa



I hereby certify that the foregoing is a full, true and complete copy of the Motion filed in the above entitled cause, as full, true and complete as the same remains on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Des Moines, this 8th day of August, A.D. -1960.

/s/ Helen M. Lyman, Clerk.

[fol. 14]

EXHIBIT 11

STATE OF IOWA :  
 COUNTY OF LEE :

IN THE SUPREME COURT OF THE  
 STATE OF IOWA

RICHARD W. MARSHALL, APPELLANT

VS.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
 Fort Madison, Iowa, APPELLEE

AFFIDAVIT OF POVERTY

Comes now Richard W. Marshall, Appellant in the above entitled cause, being first duly sworn on oath, deposes and relates the following, to wit:

— 1 —

I am a Citizen of the United States, and a legal resident of the State of California, now serving a term of 10 years in the Iowa State Penitentiary, Lee County, Fort Madison, Iowa.

— 2 —

I am of legal age and majority rights, of sound mind, without funds or property of my own; nor money, nor means to obtain money with which to pay the statutory filing fee for docketing this appeal, and, unless this attached motion is sustained I will be unable to obtain the relief to which I believe I am entitled by this appeal from the adverse order of the Lee District Court, on the habeas corpus proceedings attempted therein, September 19, 1959.

— 3 —

I have this day mailed by United States Mail, postage prepaid, a copy of the within and attached motion, signed in manuscript by myself, addressed to the Hon. Norman

A. Erbe, Attorney-General of Iowa, and the Attorney of Record for the Appellee, at his office in the State House, Des Moines, Iowa.

— 4 —

I have read the within and foregoing prescribed by me, and the same is true, and I so do verily believe.

(s) Richard W. Marshall  
Appellant Pro se.

Subscribe and Sworn to this 6th day of October, 1959, at Fort Madison, Lee County, Iowa.

(s) Ralph D. Moehn  
Notary Public in and  
for Lee County, Iowa

My Commission expires  
July 4, 1960

(SEAL)

[fol. 15] I hereby certify that the foregoing is a full, true and complete copy of the Affidavit of Forma Pauperis filed on October 20, 1959, in the above cause, as full, true and complete as the same remains on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at Des Moines, this 8th day of August, A.D. 1960.

/s/ Helen M. Lyman, Clerk.

(SEAL)

[fol. 16]

EXHIBIT 12

IN THE SUPREME COURT OF THE  
STATE OF IOWA

BE IT REMEMBERED, That on the 20th day of October,  
1959, the following proceedings were had, to-wit:

Appeal from Court.

RICHARD W. MARSHALL, APPELLANT

vs.

JOHN E. BENNETT, Warden, Iowa State Penitentiary,  
Fort Madison, Iowa, APPELLEE

## ORDER

Application denied.

## THE SUPREME COURT OF IOWA

Robert L. Larson  
Chief Justice

I hereby certify that the foregoing is a full, true and complete copy of the order made by said Court in the above entitled cause, as full, true and complete as the same remains on file and of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set  
my hand and affixed the seal of said Court, at  
Des Moines, this 8th day of August, A. D. 1960.

/s/ Helen M. Lyman, Clerk.

By

Deputy

[Vol. 17]

IN THE SUPREME COURT  
OF THE UNITED STATES

No. 177, October 1960 Term

MARSHALL, PETITIONER

v.

BENNETT, WARDEN

STIPULATION—July 26, 1960

It is hereby stipulated and agreed between Norman A. Erbe, Attorney General of the State of Iowa, counsel for the respondent, John E. Bennett, Warden, and Luther L. Hill, Jr., counsel for the petitioner, Richard W. Marshall, that the record in the above action shall consist of the following documents, copies of which are attached hereto:

Exhibit 1. Petition for writ of habeas corpus in Lee County District Court.

Exhibit 2. Application for leave to proceed in forma pauperis in the Lee County, Iowa, District Court.

Exhibit 3. Affidavit of poverty in support of the motion.

Exhibit 4. Order denying leave to proceed in forma pauperis, signed by Judge J. R. Leary, September 19, 1959.

Exhibit 5. Notice of appeal, filed September 25, 1959.

Exhibit 6. Motion to settle record, filed September 29, 1959.

Exhibit 7. Order by Judge J. R. Leary, dated October 6, 1959.

Exhibit 8. Motion in the Supreme Court of Iowa to be allowed to file typewritten copies of the record on appeal.

Exhibit 9. Order of the Supreme Court of Iowa dated September 30, 1959, granting application and directing that applicant may file 15 copies of the record in typewritten form as per request.

[fol. 18] Exhibit 10. Motion filed in the Supreme Court of Iowa to be allowed to proceed in forma pauperis without payment of the statutory costs and filing fees.

Exhibit 11. Affidavit in support thereof dated October 6, 1959.

Exhibit 12. Order of the Supreme Court of Iowa dated October 20, 1959, denying the application to proceed in forma pauperis.

[init] N.A.E. by M.R.Y.  
L.L.H., Jr. by P.A.C.

Dated at Des Moines, Iowa, this 26th day of July, 1960.

/s/ Norman A. Erbe  
NORMAN A. ERBE, Attorney General  
of the State of Iowa, Attorney for  
Respondent, John E. Bennett

/s/ Luther L. Hill, Jr.  
LUTHER L. HILL, JR., Attorney for  
Petitioner, Richard W. Marshall.

[fol. 19]      Marriage-Probate-District Court  
 Birth-Death-Criminal  
 Records Since 1837

CLERK OF THE DISTRICT COURT

Lee County, Iowa

August 11, 1960

Lyle B. Miller, Clerk  
 Keokuk  
 Phone 29

Mary McMurry, Deputy  
 Fort Madison  
 Phone DRake 2-3523

Mr. Ralph A. Church  
 c/o Henry & Henry, Lawyers  
 Equitable Building  
 Des Moines 9, Iowa

Inre: Marshall vs. Bennett, Warden

Dear Mr. Church:

I have your letter of August 9, 1960 relating to the above matter in which you state that your partner, Mr. Luther L. Hill, Jr. was appointed attorney for Richard W. Marshall by the Supreme Court of the United States; that Mr. Hill is on his vacation; that, on his behalf, you have received a letter from the Clerk of the United States Supreme Court, returning a stipulation entered into by Mr. Hill and by the Iowa Attorney General to the record and request that various documents attached to the stipulation be certified by the Clerk of our District Court and the Clerk of the Supreme Court of Iowa as true copies. Your letter enclosed the various documents, asking that I certify them establishing true and exact copies and return them to you.

Under the law, when a Petitioner files a Petition for a writ of habeas corpus and the District Court denies the Application and no writ is issued, then the Application for the writ is returned to the Petitioner with the reasons for the denial of the writ endorsed thereon. In this instance, that was done. Therefore, there is no District Court file in my office relating to the Petition of Richard W. Marshall vs. John C. Bennett, Warden, for writ of habeas corpus. The same situation applies to Mr.

Marshall's Application to proceed "in forma pauperis" and to his affidavit of poverty in support of the Application. I do have a copy of the Court's Order, filed September 19th, 1959 Petitioner's Application to proceed in forma pauperis, signed by Judge Leary and therefore, I have certified to the copy of that Order and return it to you herewith. The same reasoning applies to the Notice of Appeal. However, I do have that Notice of Appeal in a miscellaneous file, since I have no file relating to the Petition for writ of habeas corpus. The Notice of Appeal is not entered of record in my office in any record since, as I understand it under the law, there is no record for such Notice. However, I do have in my office, not recorded, the Notice of Appeal, filed September 25, 1959. However, I do not feel that under the Iowa law, I would have the right to certify to a copy of that Notice as being a matter of record and, therefore, I am not certifying to that copy of the Notice of Appeal. I do have of record, the Order of Judge Leary, dated October 6, 1959, finding that there is no record to settle on this appeal; that the Appeal can only be from the Order denying the petitioner's request to file his Petition for writ of habeas corpus as a pauper, dated October 6, 1959 and therefore, I am certifying to the copy of that Order and enclose it herewith.

[fol. 20] I recognize that this situation presents considerable difficulty to you in presenting the entire facts situation to the United States Supreme Court, but I also recognize my legal limitations and certifying to matters not properly of record in my office.

I am sending a copy of this letter to Mr. Marion R. Neely, Assistant Attorney General, so that if he has any further suggestions or directions to this office, he may submit them. This letter is being written on the advice of the County Attorney of Lee County, Iowa.

Very truly yours,

LYLE B. MILLER  
CLERK OF THE DISTRICT COURT  
By: /s/ Mary McMurry  
Deputy

Enc.  
MM:jl



[fol. 21] SUPREME COURT OF THE  
UNITED STATES

No. 446 Misc., October Term, 1959

RICHARD W. MARSHALL, PETITIONER

VS.

JOHN E. BENNETT, WARDEN

On petition for writ of Certiorari to the Supreme Court  
of the State of Iowa.

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA  
PAUPERIS AND GRANTING PETITION FOR WRIT OF  
CERTIORARI—June 27, 1960

On consideration of the motion for leave to proceed  
herein *in forma pauperis* and of the petition for writ of  
certiorari, it is ordered by this Court that the motion to  
proceed *in forma pauperis* be, and the same is hereby,  
granted; and that the petition for writ of certiorari be,  
and the same is hereby, granted limited to the question  
decided in *Burns v. Ohio*, 360 U.S. 252. The case is trans-  
ferred to the appellate docket as No. 1037 and consoli-  
dated with Nos. 515 Misc. and 785 Misc. A total of two  
hours is allowed for the argument of these three cases.

June 27, 1960